

CHAPTER 8  
PETITION FOR RULE MAKING AND FOR DECLARATORY RULING

**193B—8.1(17A) Petition for rule making.** Any person or board may file a petition for rule making with the board.

A petition is deemed filed when it is received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

IOWA ARCHITECTURAL EXAMINING BOARD

Petition by (Name of Petitioner)	)	
for the (adoption, amendment, or	)	PETITION FOR
repeal) of rules relating to	)	RULE MAKING
(state subject matter)	)	

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.

2. A citation to any law deemed relevant to the board’s authority to take the action urged or to the desirability of that action.

3. A brief summary of petitioner’s arguments in support of the action urged in the petition.

4. A brief summary of any data supporting the action urged in the petition.

5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

6. Any request by petitioner for a meeting provided for by rule 8.4(17A).

**8.1(1)** The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**8.1(2)** The board may deny a petition because it does not substantially conform to the required form.

**193B—8.2(17A) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The board may request a brief from the petitioner or from any other person concerning the substance of the petition.

**193B—8.3(17A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to the executive secretary.

**193B—8.4(17A) Board consideration.**

**8.4(1)** Upon request by petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the board by any person.

**8.4(2)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specif-

ic grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the board mails or delivers the required notification to petitioner.

**8.4(3)** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board’s rejection of the petition.

**193B—8.5(17A) Petition for declaratory ruling.** Any person or board may file a petition with the board for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order administered by the board. A petition is deemed filed when it is received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA ARCHITECTURAL EXAMINING BOARD

Petition by (Name of Petitioner) )	PETITION FOR DECLARATORY RULING
for a Declaratory Ruling on )	
(Cite Provisions of Law Involved) )	

- The petition must provide the following information:
- 1. A clear and concise statement of all relevant facts on which the ruling is requested.
  - 2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
  - 3. The questions the petitioner wants answered, stated clearly and concisely.
  - 4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
  - 5. The reasons for requesting the declaratory ruling and disclosure of the petitioner’s interest in the outcome.
  - 6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been directed by, are pending determination by, or are under investigation by any governmental entity.
  - 7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions in the petition.
  - 8. Any request by petitioner for a meeting provided for by 8.8(17A). The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**193B—8.6(17A) Briefs.** The petitioner may attach a brief to the petition in support of the position urged in the petition. The board may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

**193B—8.7(17A) Inquiries.** Inquiries concerning the status of a petition for a declaratory ruling may be made to the executive secretary.

**193B—8.8(17A) Board consideration.** Upon request by petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may solicit comments from any person on the questions presented in the petition. Also, comments on those questions may be sub-

mitted to the board by any person. Within 30 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, issue a ruling on the petition or refuse to do so. The board is deemed to have issued a ruling or to have refused to do so on the date the ruling or refusal is mailed or delivered to petitioner.

**193B—8.9(17A) Refusal to issue ruling.** The board may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue a ruling.
3. The board does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in current rule making, contested case, or other board or judicial proceeding that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
7. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a board decision already made.
9. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

**8.9(1)** A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final board action on the petition.

**8.9(2)** Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the board's refusal to issue a ruling.

**193B—8.10(17A) Contents of declaratory ruling—effective date.** In addition to the ruling itself, a declaratory ruling must contain the date of its issuance, the name of petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory ruling is effective on the date of issuance.

**193B—8.11(17A) Effect of a declaratory ruling.** A declaratory ruling is binding on the board and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the board. The issuance of a declaratory ruling constitutes final board action on the petition.

These rules are intended to implement Iowa Code sections 17A.7 and 17A.9.

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